

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

OWEN BARNABY,

Plaintiff,

Case No. 22-cv-12387
Hon. Matthew F. Leitman

v.

MICHIGAN STATE
GOVERNMENT, et. al.,

Defendants.

**ORDER TRANSFERRING CASE TO
THE WESTERN DISTRICT OF MICHIGAN**

Plaintiff Owen W. Barnaby filed this *pro se* civil rights action against the State of Michigan, Niles Charter Township, the Berrien County local government, and twenty-five state and local government officials. (*See* Compl., ECF No. 1.) In his complaint, Barnaby alleges that the Defendants engaged in “wrongful foreclosure, intentionally wrongful foreclosure and/or foreclosure by forgery” with respect to real property he owned in Berrien County, Michigan. (*Id.* at ¶ 17, PageID.5.) Barnaby failed to plead any facts alleging how each Defendant violated his federal or state rights or why the foreclosure of his real property was unlawful. Rather than dismissing the case outright, the Court granted Barnaby leave to file an Amended Complaint to cure the deficiencies. (ECF No. 4.)

On November 14, 2022, Barnaby filed an Amended Complaint. (*See* Am. Compl., ECF No. 6.) On November 28, 2022, he filed a Second Amended Complaint.¹ (*See* Second Am. Compl., ECF No. 10.) Having reviewed the Amended and Second Amended Complaints, the Court concludes that the case should be transferred to the United States District Court for the Western District of Michigan.

Venue for a federal civil action generally lies in the district in which any defendant resides or in which “a substantial part of the events or omissions giving rise to the claim occurred.” 28 U.S.C. § 1391(b). Under 28 U.S.C. § 1404(a), “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” District court have “the discretion to transfer cases on an individual basis by considering convenience and fairness.” *Kerobo v. Southwestern Clean Fuels, Corp.*, 285 F.3d 531, 537 (6th Cir. 2002).

As noted above, the real property at issue in this case is located in Berrien County. That county lies in the Western District of Michigan. *See* 28 U.S.C. § 102(b)(1). It is apparent that Barnaby’s claims arose there and that the majority of the defendants (including the defendants with a potentially meaningful connection

¹ The Court discerns no material difference between the First and Second Amended Complaints.

to his claims) reside there. Indeed, the only four defendants who could arguably be deemed to be located in this district for venue purposes (Michigan Attorney General Dana Nessel, Office of the Governor of Michigan, State Bar of Michigan and the Supreme Court of Michigan) have no apparent connection to Barnaby's claims.

In addition, Barnaby's litigation history in the Western District of Michigan is relevant. In 2014, he filed an action in that court against Berrien County, Michigan, and Bret Witkowski, the Berrien County Treasurer, concerning the same real property at issue in this case. *See Barnaby v. Wikowski, et al.*, W.D. Mich., No. 1:14-cv-01279. It is clear that the allegations in Barnaby's pending complaint are substantially similar to those raised in the earlier case and may, in fact, be duplicative of the earlier case. It is in the interest of justice that this case be transferred to the Western District of Michigan, the court in the best position to address the overlapping allegations.

Accordingly, the Court ORDERS the Clerk of Court to transfer this case to the United States District Court for the Western District of Michigan pursuant to 28 U.S.C. § 1404(a).

IT IS SO ORDERED.

/s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 5, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 5, 2022 by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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